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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of the
Cable Television Consumer
Protection and Competition
Act of 1992

Consumer Protection and Customer
Service

MM Docket No. 92-263

COMMENTS OF THE COMMUNITY ANTENNA TELEVISION
ASSOCIATION, INC.

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ASSOCIATION, INC.

The Community Antenna Television Association, Inc., ("CATA"), is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these "Comments" on behalf of its members who will be directly affected by the Commission's action.

INTRODUCTION

Section 8 of the Cable Act of 1992 requires the Commission to adopt standards governing cable television customer service. It is CATA's view that adoption of federal customer service standards is a remedy for a "problem" that already is well on its way to being resolved. Most cable operators, after a construction phase that admittedly put extreme pressure on their ability to respond to customer needs, have dramatically improved their customer service along with the upgrading of their systems.

The cable television industry is vitally concerned about

customer service. During its construction phase, the industry was forced to focus most of its attention on building and extending its lines in order to meet the popular demand for service. People wanted cable television and they wanted it "now." In our rush to meet this demand, customer service was often unable to keep up with demand.

Once the construction schedules eased, however, cable operators were able to turn their attention to customer satisfaction. The primary example of this effort to upgrade service is the industry-wide program which promotes system compliance with the "Customer Service Standards" adopted by CATA and the National Cable Television Association ("NCTA"). The majority of CATA's membership (and, we believe, NCTA's) participates in this program by meeting or exceeding the standards.

Cable operators know, however, that good customer service goes far beyond meeting a particular set of standards. Cable television is a nonessential, discretionary service dependent for success upon satisfied customers. While adoption of federal standards may be helpful in achieving that goal, the ultimate test, CATA suggests, is what the consumers actually think about the service. Therefore, CATA urges the Commission to adopt customer service standards that leave sufficient flexibility not only to accommodate the specific needs and concerns of the wide variety of cable communities and systems, but also to allow for the use of other tests and measures of customer satisfaction.

I. ESTABLISHING THE STANDARDS

The customer service standards adopted in this proceeding, whether they be modeled on the NCTA/CATA standards or take some other form, must be clearly articulated and flexible. The Commission must assure that the standards, when adopted and enforced at the local level, meet the needs of the community without being subjected to unreasonable interpretations or applications that may, in fact, result in additional costs to the consumers.

In many instances, strictly construed federal standards may not be appropriate for a community or may need to be tailored to meet specific local concerns. For instance, small cable systems stretch their resources, often over a number of communities, in order to provide affordable service where otherwise it would not be possible. In these situations, customers can be "satisfied" despite the fact that it takes the operator more than four rings before the telephone is answered, or a couple of days to complete an installation, or repair an outage. The practical alternative in these areas is no service at all!

CATA urges the Commission to build into its standards a recognition of this reality that the best solution for one community may not necessarily be the best for another. Specifically, it should identify where compliance with the standards would impose a significant financial burden on consumers. In those cases, application of the "standard" would be counterproductive and therefore, not required. In fact, it should go one step further and codify the presumption that small

systems cannot meet several specific standards without potentially imposing unjustified costs on the consumer; therefore, those federal standards, such as telephone response time and installation and repair time frames, should not apply to small operators. The structure of the law is such that a community in cooperation with an operator can always re-introduce those provisions on a customized basis should they be deemed necessary.

The Commission also should make clear that customer satisfaction may be demonstrated by means other than compliance with the federal standards, thus making the measurement standards unnecessary. As we stated above, customer service goes far beyond answering telephone calls within a certain number of rings. For instance, cutting short a conversation with one subscriber in order to answer the call of another within a set number of rings is not likely to engender customer satisfaction. So if an operator can show to the community that subscribers are satisfied with the service, the operator and the community should jointly have the discretion to waive the measurement standards even if they had been adopted in the local franchise.

Finally, and in the same vein, the Commission should make clear that the standards are to be applied pursuant to a rule of reasonableness. De minimus departures from the standards or departures under unusual circumstances will occur even in the best situations. When these things happen they should not be considered violations subjecting the operator to enforcement procedures. The Commission should make clear that it is the

operator's overall performance in consideration of all the circumstances, not technical violations, that matters.

II. EFFECTUATING CUSTOMER SERVICE STANDARDS

The federal customer service standards should become effective only upon adoption by the local franchising authority. This is appropriate because cable television by its nature is a local business characterized by a wide variety of community and system demographics. Many communities that are satisfied with the level of their cable service will choose not to adopt the federal standards or, as we discussed above, may want to tailor the standards to fit their local situation. Again, we reiterate customer satisfaction, not adherence to arbitrary measurements, is the true intent of the congressional effort. Thus, it is not until standards are adopted at the local level that they become effective.

The Cable Act is clear that standards other than the federal ones may be effectuated under certain circumstances. First, the local franchising authority and the cable operator may agree upon any differing customer service standards, be they more or less stringent, and incorporate them into the franchise agreement. They may agree to the federal standards, lesser standards, or stricter ones. As long as there is mutual agreement the standards become a part of the franchise agreement and must be complied with by the cable operator. It is important for the Commission to include this concept within its standards to avoid subsequent litigation suggesting that a community may only impose

more stringent standards.

Customer service standards also may be imposed upon the cable operator by passage of a law or ordinance of general applicability to all services within the community. For instance, the State of California enacted a law requiring all customer service calls to be carried out within a prearranged four-hour window. This law applies not only to the cable television industry, but to other service industries as well. Adoption of standards in this manner may be unilateral, taken without the operator's agreement, and, moreover, may be stricter (or less stringent) than those of the Commission. The requirement, however, is that they must be imposed by laws of general applicability and not ones aimed solely at cable television operations. This reading of the statute is the only way all provisions in the section can be given meaning.

No doubt some commenter in this proceeding will suggest the opposite, i.e., that a local franchising authority may unilaterally adopt customer service standards exceeding the federal standards aimed directly and solely at the local cable television system. This, however, could not have been the intent of Congress in passing the Cable Act. If that were so, the provision allowing the cable operator and local authority to mutually agree upon stricter standards would then be meaningless. The only consistent reading of the law is the one proffered by the Commission: local franchising authorities may adopt customer service standards in excess of the Commission's only upon mutual

agreement with the cable operator or by enactment of a law or ordinance of general applicability.

In essence, the Commission should adopt the view that there are three alternatives for communities and cable operators wanting to formally establish customer service standards:

- adoption of the Commissions standards;
- the setting, by mutual agreement, of different (greater or lesser) standards;
- the enactment of customer service laws or ordinances of general applicability.

These options presume that the community has made its initial investigation of the issue and determined that measurement standards are appropriate. Many communities, CATA suggests, will find that operators are already meeting performance standards and achieving customer satisfaction that far exceeds anything the introduction of measurement standards would improve. Others will find that measurement standards are not appropriate or applicable to their situation. This is particularly true in smaller communities where such measurement standards may well impose undue costs for consumers without creating any significant benefits.

Flexibility must be maximized in both the Commission's design for the effectuation of the standards, as well as the standards themselves.

III. THE STANDARDS - A PRACTICAL VIEW

Should the Commission adopt the construction CATA suggests above, it is foreseeable that several practical results will follow. First, many communities may find that there is no need to add bureaucracy to a process that is already working. Others will decide to customize standards to their needs. Finally, there will be those communities which simply adopt the Commission's standards without doing more. It is this last group that the Commission must be most concerned with.

Communities, particularly those without professional staffs, are already being inundated with written "advice" and offers of consultant help to "reregulate" the cable industry. Some will feel great pressure to adopt something, anything, since the law now gives them that power. The simplest and cheapest solution for a small town in that position is to adopt the Commission's standards. Thus, the Commission must carefully construct those standards to avoid unintended consequences.

CATA will not review here the details of the present voluntary industry standards. Two years of experience with them has demonstrated their strengths and weaknesses. Clarifications and changes are necessary if they, or something like them, are to be incorporated into the Commission's rules. Others filing in this proceeding will provide detailed analysis of those standards which CATA will respond to in reply comments. We urge the Commission, however, to carefully screen any standards for those that could clearly impose excessive burdens on smaller operators and their customers and not apply those standards to smaller

systems. They can always be added by other mechanisms included in the law, but if they are injudiciously included at the outset by communities simply adopting whatever the Commission adopts, unintended consequences will inevitably follow.

Two specific areas are obvious: telephone response time, and installation and repair time. These are personnel or equipment sensitive standards that may not relate to customer satisfaction, but definitely impact customer costs. They should not apply to small systems unless specifically discussed, and hopefully agreed upon by the parties at the local level. There are simply too many variables for the Commission to attempt micro-management by adopting "sliding scales" or many different standards for such measurements as the speed with which a telephone is answered based on the size or location of a system.

CATA urges, instead, that wherever the Commission finds itself debating such micromanagement as it develops its standards, it opt for a single standard for larger systems, we would suggest 10,000 subscribers or more, as the industry itself has, and not apply those specific standards to smaller systems. By doing this the Commission will signal that the standard is potentially of importance, but not amenable to federal generalization. Those communities who then choose to delve farther into the adoption of community-specific standards may do so without the risk that those who do not will suffer from unintended consequences brought on by the federal standards attempting to be too detailed to take into account all the variables in smaller communities.

IV. ENFORCING THE STANDARDS

CATA agrees with the Commission's initial reading of the law that enforcement of the federal customer service standards is by the local franchising authority, not the Commission. The standards are not self-effectuating. Only after the local franchising authority adopts them should they become effective. Once adopted they become a part of the franchise agreement and enforcement is determined by the provisions of that agreement. Enforcement provisions are either a part of existing franchises or enforcement is accomplished by the community through renewal reviews or breach proceedings. The choice of enforcement mechanisms has already been made in the adoption of the franchise and customer service provisions should be treated no differently from the many other provisions already existing in the franchise agreement. The Commission need not add any other level of enforcement to that which already exists. Of course as we have argued above, the Commission can and should be clear about the expectations contained in the standards. This, in turn, will lead to more reasonable enforcement.

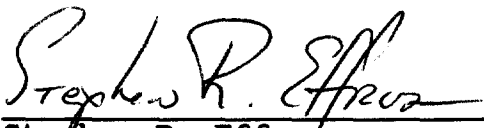
CONCLUSION

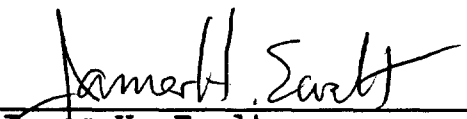
The Community Antenna Television Association, Inc., urges the Commission to adopt customer service standards that are clearly stated and flexible enough to account for the variety of needs and circumstances in cable communities across the country. The Commission should recognize and specifically state that the standards do not apply in those situations where compliance will

impose an unnecessary or burdensome cost on the subscribers. In particular, the Commission should recognize that small systems do not have to meet certain standards because they could be burdensome, unnecessary costs would be incurred, and unintended consequences would follow. The standards should not be self-executing. They should become effective only upon adoption by the local franchising authority. Stricter or less stringent standards may be imposed only by mutual agreement between the local franchising authority and the cable operator or through enactment of a law or ordinance of general applicability to all services in the community. And finally, enforcement of the standards is by the terms of the franchise agreement, not by the Commission.

Respectfully submitted,

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